

Town of Chebeague Island Board of Adjustment and Appeals

December 19, 2022 of the Meeting at the CIHCC

Board members present: Sam McLean, chair; Charles Hall and Cheryl Stevens

Absent: Tad Runge (In Isolation for Covid)

Members of the public, Representatives of the Town, The Permittee and representatives of the Appellants in the Gallagher Appeal were present

Chair called the meeting to order at 5:05

Chair declared that there was a quorum present .

First item of business was the review and approval of the minutes of the December 1 portion of Hearing.

Chair stated that if the members did not wish to approve the minutes because the secretary was not present that the decision could be delayed to another meeting when member Runge was present.

Board decided to wait until the Secretary was present.

NOTE: Audio was inaudible for a moment

Purpose of today's meeting I was to review the letters appealing the Board to reconsider the Board's 12/1/22 decisions of the Gallagher Appeal.

The Board having received several letters, all within the 10 day window required in the code. The Chair started the reading of the letters.

She read the George Hayden letter requesting reconsideration (Appendix A).

Stevens read the John Butler letter requesting reconsideration (Appendix B) .

Hall read the Makee's letter requesting consideration (Appendix C).
Chair McLean read the Buxbaum letter (Appendix D)

This was followed by Stevens and Hall reading the David Hill and Nancy Hill letters. Appendices E and F)

Board members McLean and Stevens read Attorney Burn's letter to the Town Administrator regarding her opinion about holding a meeting to reconsider the 12/1 decision of the BOAA (Appendix G)

While it arrived after the 10 day period for letters of appeal the Chair felt that a letter from the law firm representing the Gallaghers was not a letter of appeal and offered interesting legal advice to the Board that should be considered. McLean went on to read the letter. (Appendix H) Stevens read another letter from the Makees in which they referenced Maine's open meeting law. Appendix I)

Hall mentioned that he would like the Board to consider a motion to reconsider our decision if and only if that motion and a meeting to reconsider the 12/1 decisions was limited to the actual four questions requested at the 11/3 hearing.

There followed considerable debate regarding the wording re. the closing of the 11/3 meeting.

Hall indicated he believed reconsideration was appropriate because of the four outstanding issues that surfaced at the suggestion of the Town Attorney at the end of the 11/3 Hearing.

McLean preceded to read absent Board member Runge's letter regarding his opinion of what the Board should do regarding the requests for reconsideration (Appendix J)

Board member Hall mentioned that he believed that reconsideration would be appropriate because both parties involved in the Gallagher Appeal , the the appellant's law firm and the permittee were both requesting a reconsideration for different reasons.

Stevens said she agreed that it should be reopened and to have that meeting be limited only to discussing the four points that we asked the town attorney to respond to. She felt that should our decision go to the Superior Court it should not go with any perceived procedural error - the procedural error that was outlined in the Quay letter. That error being, in the opinion of Appellant's lawyer Quay, that the Board at their 11/3 Hearing had not closed the Hearing to further public discussion because of the discussion that ensued with the town attorney Burns regarding finding answers to the four questions.

Hall added that the Board can reopen the hearing for reconsideration but we do not have to change anything regarding our decisions. Member Stevens mentioned that she would like very much to have Lawyer Quay speak to the Board regarding her opinion that there was a procedural error at the 11/3 Hearing. and how it could be corrected.

At the request of the Board Chair Sandra Quay approached the owl. She stated that at the conclusion of the 11/3 video of the Hearing, that she reviewed, that she believed she heard the chair say the public hearing would be left open to the next meeting, that there was no vote taken, a vote should have been taken to close the discussion .

Makee interrupted the meeting at this time stating that he wished to make a statement.

Chair McLean indicated to Mr. Makee that this was not a public hearing but a meeting of the Board to consider the requests for reconsideration. Some based on the the responses in Lawyer Burn's memorandum and would those responses change the Board's 12/3 decisions.

It was mentioned that the Boards decisions did not come down to any of those four questions. McLean then went on to review the Board's decisions at the 12/1 Hearing from the official record.

Hall asked the chair if she was clear that our De Novo review and our decisions satisfied our responsibilities regarding the Appeal. That no part of our decisions was based any of the four issues brought up in the questions.

McLean confirmed that none of our conclusions and decisions were based on or be affected by any of the four issues.

Stevens: Those four issues are covered in the Finding of Fact.

Hall: Are we sure that everyone of our Findings of Fact is not under contention? Requiring additional testimony?

McLean reviewed the vetting process that took place when reading the Findings.

Stevens stated that she didn't see any harm in reconsidering.

Hall added he didn't think the Board would change anything as long as we stick to the four issues that have been discussed. He added that we had a difficult subject, we had limited legal advice, no outside legal advice, and we couldn't talk to one another. The process might be

perceived as rushed..

Hall: I would like to suggest that we make a motion on whether or not to reconsider

Stevens seconded a motion to reconsider.

The vote was two in favor of the motion, one opposed.

Stevens indicated that the motion did not pass because it needed a majority of the Board that made the original decision.

Stevens made a motion to adjourn the meeting. Passed unanimously.

Adjourned at 6:52PM

Respectfully Submitted (in absentia using UTube video)

Tad Runge